



PATENT
ATTORNEY DOCKET NO. 053785-5015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Sung-Sik BAE)	Confirmation No. 3359
)	
Application No.: 09/859,681)	Group Art Unit: 2826
)	
Filed: May 18, 2001)	Examiner: F. Erdem
)	
For: LIQUID CRYSTAL DISPLAY DEVICE)	Mail Stop Petitions
HAVING IMPROVED SEAL PATTERN)	
AND METHOD OF FABRICATING)	
THE SAME)	

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, **Mail Stop Petitions**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Sir:

PETITION UNDER 37 C.F.R. §§ 1.53(e) and 1.181(a)(3)
FOR CORRECTED FILING DATE

The above-identified application currently lists a filing date September 24, 2001.
Applicant respectfully submits that the filing date should be May 18, 2001. Accordingly,
Applicant petitions that the filing date be corrected to reflect a filing date of May 18, 2001.

The Notice to File Missing Parts of Nonprovisional Application (hereinafter, the Notice) dated July 24, 2001 granted a filing date of May 18, 2001. Further, in addition to noting that the filing fees and oath/declaration were missing, the Notice noted that Figure 5B described in the specification was omitted. The Notice further provided three options: (I) Applicant could file a Petition with petition fee contending that the omitted item was in fact filed; (II) Applicant could

submit the omitted item with a Petition under 37 C.F.R. § 1.182 and petition fee requesting the later filing date; or (III) not file any petition, thereby accepting the application as deposited. Failure to elect options (I) or (II) within a two month period would be construed to constructively elect option (III).

In response to the Notice, Applicant filed a Response to Notice to File Missing Parts (hereinafter the Response) on September 24, 2001 enclosing FIG. 5B. However, Applicant did not file the Petition (and petition fee) required by both option (I) or (II) of the Notice. Moreover, at section 8 of the Response, Applicant asserted that the enclosed FIG. 5B was fully supported by the specification as originally disclosed. This statement was intended to indicate that the submitted drawing figure was not material to establish the filing date of the application.

It appears that the Office incorrectly interpreted the Response as an election of option (II) listed in the Notice. On May 14, 2002 and October 21, 2003, Applicant filed requests for corrected filing receipts. However, in a Communication dated November 14, 2003, the Office instructed Applicant to file a Petition requesting a change to the filing date. Accordingly, this Petition is being submitted.

Thus, Applicant respectfully asserts that the filing date of May 18, 2001 should have been retained for at least the following reasons, and petitions of the Office to reinstate May 18, 2001 as the filing date of the application.

First, Applicant respectfully asserts that the material of FIG. 5B relates to the background art and does not describe/relate to the claimed invention. Thus, Applicant respectfully submits that FIG. 5B is not material to a determination of the filing date of this patent application. To make this lack of materiality to filing date clear, Applicant submits herewith an Amendment with

RCE to delete FIG. 5B from the drawings and to remove reference thereto in the specification. That is, the Amendment with RCE and Submission of Replacement Drawings filed concurrently herewith are provided to clearly demonstrate the insignificance of FIG. 5B with respect to the disclosed and claimed invention. As such, because FIG. 5B is not material to a determination of the filing date and because it does not depict the claimed invention, Applicant respectfully asserts that the originally granted filing date of May 18, 2001 is the appropriate date.

Second, in accordance with option (III) of the Notice, “[t]he failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 C.F.R. § 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO.” Furthermore, option (III) of the Notice directs that “[i]n the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.” It appears accepted that Applicant did not timely file a Petition contending that the omitted item was in fact filed (i.e., option I). Applicant respectfully asserts that a Petition under 37 C.F.R. § 1.182 are required by option (II) was not submitted. Moreover, a Supplemental Declaration referring to the missing item as further required by option (II) was not submitted. Thus, in the absence of a Petition under 37 C.F.R. § 1.182 and a Supplemental Declaration, it is clear that Applicant also did not take action pursuant to option (II). Because Applicant did not take action pursuant to either option (I) or option (II), it should have been construed that Applicant constructively elected option (III) to accept the

application as deposited in the USPTO on May 18, 2001. As a result, Applicant respectfully asserts that the originally granted filing date of May 18, 2001 should have been maintained.


Third, in section 8 of the Response, Applicant indicated the enclosed FIG. 5B was “fully supported by the specification as originally disclosed.” Thus, Applicant respectfully asserts that the Response indicated an affirmative election of option III in that the application as originally deposited on May 18, 2001 was fully supporting, and therefore, accepted. (In accordance with the last sentence of the last paragraph of the Notice, FIG. 5B was merely being added by amendment of the drawings prior to the first Office Action because FIG. 5B is supported by paragraph [0001] of the original specification as well paragraphs [0031]-[0033] of the specification.) Accordingly, Applicant respectfully asserts that the originally granted filing date of May 18, 2001 should have been maintained.

In view of the foregoing, Applicant respectfully requests that this Petition be granted and that the filing date be corrected to reflect a filing date of May 18, 2001.

Please charge the \$130.00 petition fee required under 37 C.F.R. § 1.17(h) to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: 
Robert J. Goodell
Reg. No. 41,040

Dated: August 19, 2004

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